

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1144 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI  
and  
Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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DR. CHATURBHAI S. PATEL

Versus

STATE OF GUJARAT  
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Appearance:

M/s TRIVEDI & GUPTA for Petitioners  
Mr LR PUJARI, AGP, for Respondent No. 1  
NOTICE SERVED for Respondent No. 2, 3  
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CORAM : MR.JUSTICE R.K.ABICHANDANI  
and  
MR.JUSTICE KUNDAN SINGH

Date of decision: 05/12/2000

ORAL JUDGEMENT

The petitioners who are the trustees of the Gujarat New Era Education Trust have challenged the provision of Section 67-A of the Bombay Land Revenue Code, insofar as it imposes conversion charge for permission to use the land for educational purpose at the rate applicable to commercial purposes, on the ground that it violatives Article 14 of the Constitution.

2 The petitioners' grievance is that a conversion charge of Rs.69,657.75 is required to be paid by the petitioner-trust for use of the land for educational purpose. It is contended that educational purpose cannot be said to be a purpose similar to commercial purpose and when the land is used for educational purpose the rate of such levy cannot be the same as is imposed on the land put to use for commercial purposes.

3 When this petition was filed there was no separate rate of conversation tax in respect of the land used for educational or the charitable purposes. The lands put to use for a commercial or any other non-agricultural purposes were subjected to the same rate of conversation tax. This position seems to have been rectified now by the Bombay Land Revenue Code [Gujarat Amendment] Act, 1989, by which Section 67A of the Bombay Land Revenue Code has been amended and in sub-section (3) for the existing table and the explanation new table and explanation are substituted. In column (5) of the said substituted table, when the land is to be used for educational purpose, the rate of conversation charge is prescribed as Rs.1.50 per sq. meter in respect of cities and municipal borroughs with a population exceeding 2.5 lakhs but not exceeding 5 lakhs and their adjoining areas, which, formerly was Rs.2.25 being the rate prescribed for the land used for a commercial or any other non-agricultural purpose. In view of this amendment, the very basis for challenging the provsiions of Section 67A namely, that use for educational purpose cannot be treated on the same footing as use for commercial purpose does not survive. The challenge against the provisions of Section 67A will, in view of the aforesaid Amendment Act, not survive and the petition is therefore rejected subject to the direction that the respondents shall reconsider the matter, if it is still pending, in the light of the amended provision. Subject to these directions, the petition is rejected. Rule is discharged with no order as to costs. Interim relief stands vacated.

(mohd)